

# Democratic Amendment to H.R. 5

The Democratic substitute strikes and replaces H.R. 5 with amendments to Titles I, II, IV, V, VIII, and IX of ESEA. It replaces the outdated, rigid mandates of No Child Left Behind, and promotes local and state reforms while maintaining bedrock equity protections for all students.

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## Title I – Student Success

**Standards and Assessments:** The amendment would require States to establish college- and career-ready standards for English language arts, math, and science, for grades K-12 and high-quality assessments aligned to those standards.

Unlike the Republican bill, this improves current law by:

- Requiring that standards be validated to ensure that proficiency in the standards signals that students are on-track to enter the workforce or postsecondary education without need for remediation;
- Updating assessment language to create the next generation of assessments; and
- Ensuring that new high-quality assessments are accessible by incorporating universal design for learning and provide for accommodations for students with disabilities and English learners.
- Allows development and implementation of adaptive assessments, so long as such assessments meet quality standards and measure, at a minimum, on grade level performance.

**Accountability:** The amendment requires States to establish accountability systems that set performance, growth, and graduation targets to achieve the goal of all students, including subgroups of students (low-income, racial and ethnic groups, English learners, and students with disabilities) graduate college and career ready. It gives states flexibility to judge the performance of schools using multiple measures in addition to student test scores, while keeping a tight focus on student learning and outcomes.

This amendment improves current law by:

- Including student growth;
- Eliminating the restrictive AYP system while still ensuring States establish performance targets for all students and subgroups; and

This amendment is an improvement over the Republican bill by:

- Restoring accountability with guardrails on schools to ensure all students, including subgroups of students, are prepared for college and careers; and
- Restoring graduation rate accountability tied to the targets established by States under the graduation rate regulation.
- Including nationally-recognized quality authorizing standards for all public charter schools receiving title I funds (*NEW THIS CONGRESS*) which require:
  - performance-based charter agreements
  - disclosure of amount and duration of any non-public financial and in-kind support
  - renewal and revocation decisions to be based on agreed-upon accountability plan, with significant weight given to student academic achievement and growth.

**School Improvement:** The amendment requires States and districts to use the performance targets to identify “schools in need of improvement” that have missed targets and “persistently low-achieving schools” that have the lowest achievement in the State. Schools in need of improvement review data to

develop a targeted plan to improve achievement. Persistently low-achieving schools must develop a plan to improve schoolwide factors, school organization, teacher and leader effectiveness, curriculum and instruction, academic and social support services, family engagement, and governance policies.

This amendment improves current law by:

- Eliminating the one-size-fits-all approach to school improvement and the prescriptive timelines;
- Including a flexible, targeted, and differentiated approach to improvement that is tied to the specific needs of the school; and
- Using improvement indicators (including indicators of student engagement, discipline, advancement, educator quality, and academic learning) rather than just test scores to measure the progress of schools in improvement.

This amendment is an improvement over the Republican bill by:

- Establishing guardrails to ensure that schools that are not succeeding with students (including all subgroups), are expected to improve the achievement of their students; and
- Including guardrails to ensure that the lowest performing schools take significant steps to improve their achievement by addressing a whole range of factors that impact student achievement.

**Students with Disabilities:** The amendment ensures students with disabilities are included in accountability systems. It permits states to establish alternate assessments aligned with alternate achievement standards (AA-AAS) for students with the most significant cognitive disabilities. When including AA-AAS assessment scores in calculations for accountability, LEAs and States may count as proficient, no more than 1% of all students, which is consistent with data on prevalence of such students. The amendment also requires States establish guidelines for IEP teams in determining whether students should be assessed on alternate achievement standards on a yearly basis. The amendment eliminates use of “2% assessments” when new high-quality assessments are implemented.

Unlike the Republican bill, this improves current law by:

- Requiring that alternate assessments meet the high-quality criteria of the regular assessments, including incorporation of principals of universal design for learning;
- Requiring that the alternate achievement standards be vertically aligned to ensure students achieving proficiency can access college and careers;
- Requires that any computer adaptive assessments meet high-quality criteria of regular assessments and measure, at a minimum, on grade level proficiency;
- Improving the guidelines for IEP teams by ensuring students have access to the general education curriculum and that placement in alternate assessments do not influence placement in the least restrictive environment;
- Eliminating use of “2%” assessments, currently over-used by many states and resulting in thousands of students being assessed to lesser standards unnecessarily;
- Lowering the maximum subgroup N-Size for the purposes of accountability to 15 to hold LEAs and States truly accountable for the success and growth of all students;

- Codifying the 1% cap for accountability and assessment to ensure all students with disabilities are assessed to their true abilities and included in accountability systems and that there is not an incentive to increase referrals to special education

**English Learners:** This amendment requires States establish English language proficiency standards, assessments, and targets to ensure all students are achieving English language proficiency. It also requires States establish native language assessments when State have at least 10,000 students who English learners, 25% of which speak the same native language. The amendment authorizes Title III to support students and educators in improving the achievement of English learners.

Unlike the Republican bill, this improves current law by:

- Moving English language proficiency targets into Title I; and
- Requiring and establishing parameters for native language assessments.
- This is an improvement over the Republican bill by restoring English language proficiency targets and providing dedicated funding for English learners.

**Reporting:** This amendment requires States and districts to have report cards that present information on student achievement, growth, graduation rates, and improvement indicators (including indicators of student engagement, discipline, advancement, educator quality, and academic learning)—in the aggregate, disaggregated, and cross-tabulated. The report cards also include information on alternate assessments, information on English language proficiency, teacher qualifications, and teacher effectiveness.

Unlike the Republican bill, this improves current law by:

- Including cross-tabulation, student growth, and performance information on alternate assessments; and
- Appropriately defining the 4-year adjusted cohort graduation rate and the extended year (5- and 6-year) rate.

Additionally, this is an improvement over the Republican bill by restoring reporting by gender and migrant status.

**Funding Equity:** The Democratic amendment closes a loophole in current law that allows districts to allocate less money to Title I schools compared to wealthier schools, by requiring districts to include actual teacher salaries in their calculations. It also requires states and districts to publicly report their progress in making funding equitable.

Unlike the Republican bill, this improves current law by:

- Not allowing districts to inequitably fund low-income schools; and
- Making equity efforts public and transparent.

**Funding “Flexibility”:** The Democratic amendment restores separate dedicated funding streams for migrant students, neglected and delinquent students, English learners, rural students, and Indian students. It eliminates the Republican funding “flexibility” provisions that would allow funding from

these programs to be spent on activities rather than on services to the population of students for which each program is intended. The Democratic amendment does increase local flexibility by eliminating burdensome mandatory spending requirements in school improvement and supplemental educational services.

**Other Provisions:** The Democratic amendment is an improvement over the Republican bill by restoring fiscal responsibility and eliminating unnecessary burdens.

- The Democratic amendment restores the assessment funding stream to maintain a program dedicated to supporting the development of high-quality assessments.
- The Democratic amendment restores maintenance of effort provisions in Title I to ensure continued State and local funding for education.
- The Democratic amendment eliminates new burdensome provisions on equitable participation of private school students.
- The Democratic amendment increases funding for family engagement from 1% to 2% and improves section 1118 to nationally-recognized standards for family-school partnership.

## Title II – Great Teachers and Leaders

The Democratic Amendment updates current law to better support students, teachers and school leaders. The rewrite of Title II includes a formula grant to states and local education agencies, a competitive grant to support teacher and school leader innovation, and restores and updates Title II of the Higher Education Act to improve pre-service training for teachers. Title II, Part A, the formula to States and LEAs, focuses on three major areas:

1. supporting quality teacher and school leader evaluations and targeted professional development;
2. improving supports and working conditions for educators; and
3. improving equitable distribution of effective teachers and school leaders to the students that need them most.

The amendment requires States to establish teacher and principal evaluations systems to ensure teachers and leaders targeted support and opportunities to improve and to improve student learning. The system is required to be developed with teachers and school leaders. It includes multiple measures of student achievement and classroom practice. It requires that teachers and leaders be given targeted supports and time to improve. The system requires that all participants are trained in the evaluation system and its use. The program will provide funding to support the evaluations systems being developed by dozens of States through the NCLB flexibility being offered by the Department of Education. Additionally, the collective bargaining rights and privacy of teachers and school leaders are protected.

The amendment also requires local education agencies to develop and implement an assessment of educator supports and working conditions to ensure teachers and school leaders are given the best opportunity to succeed with students. The assessment would look at educator supports, such as access to quality professional development and instructional materials, timely access to data, professional growth opportunities, and strong instructional leadership. It would also look at working conditions such as

school climate and safety and opportunities to collaborate. The LEA would develop a plan to address shortfalls and annually report on that plan. Additionally, the assessment and corresponding plan would be developed with teachers and school leaders.

The amendment requires states and districts to address the equitable distribution of effective teachers and school leaders to ensure they reach the students that need them most. States and LEAs are required to develop and implement a plan to, over time, ensure students are taught and schools are led by effective teachers and school leaders at equal rates across an LEA.

The amendment also requires the state to establish a data system link between LEAs and pre-service programs to support data sharing. Such a link would provide aggregated student performance information back to schools of education and other pre-service programs to support their improvement.

Unlike the Republican bill, this improves current law:

- The amendment also supports induction and mentoring and requires states to address large class sizes in kindergarten through 3<sup>rd</sup> grade, with a focus on the poorest schools.
- The Democratic Amendment supports high quality, comprehensive teacher and school leader evaluations that include multiple measures of student learning and classroom practice and that are tied directly to targeted support.
- H.R. 5 alters the Title II formula to support fewer poor schools. The Democratic Amendment retains the current formula and focus on the neediest schools.
- H.R. 5 does not support quality professional development or take into consideration the working conditions of teachers and leaders, including school safety, and creating an arbitrary cap on class size despite research.
- H.R. 5 does not support access to effective teachers for all students.
- H.R. 5 strikes the Highly Qualified Teacher definition, dismantling efforts to ensure students see teachers who meet certain standards at a minimum to teach.
- H.R. 5 and current law do not support data sharing between LEAs and pre-service programs to support the improvement of teacher training.

**Title II, Part B, supports the Teacher and Leader Innovation Fund**, a competitive grant to States and LEAs. The grant would support partnerships between States, high-need LEAs and partnerships between institutions of higher education, education service agencies, and other non-profit organizations. The grants are to support innovative practices to support teachers and school leaders and improve student achievement.

**Title II, Part C, restores Title II of the Higher Education Act.** The program is updated to ensure teachers are prepared to teach students to new college and career ready standards. The competition would be opened to include programs that provide alternative routes to State certification if they meet the same criteria as the current eligible entities. The intention in opening up the competition is to ensure the highest quality programs can be selected.

Unlike the Republican bill, this improves current law:

- The Democratic amendment restores the Title II of Higher Education Program to maintain federal support for high quality teacher training. The Amendment improves upon current law by opening up the competition to programs that provide alternative routes to certification.

## **Title III – English Language Learners**

H.R. 5 strikes all of Title III. The Democratic amendment restores Title III as programmatic supports for English language learners and extends the program authorizations within Title III. Additionally, all Title III accountability provisions to ensure quality education for English Learners are moved to Title I (see explanation on page 4).

## **Title IV – Safe, Healthy, and Successful Students**

H.R. 5 strikes all programs under current law Title IV, Part A and makes these programs an allowable use of funds under the Local Academic Flexible block grant. The Democratic substitute amendment eliminates the Republican block grant, strikes all of current law under Title IV, and replaces it with programs to support out-of-school and expanded learning time programs and programs to support the non-academic, health, and safety needs of students. All programs in the Democratic amendment prioritize low-performing and low-income schools.

**Title IV, Part A provides funding for after school programs and expanded learning time.** The Democratic amendment provides formula funding to states, and competitive grants to partnerships of local educational agencies and community-based organizations (either of which may be fiscal agents). Grantees decide whether to use the funds for before, after, or summer school, or expanded learning time based on a needs assessment.

Unlike the Republican bill, this improves current law by:

- Creating a separate funding stream dedicated to the before, after, and summer school programs, and expanded learning time activities, instead of forcing districts to make difficult, and sometimes political decisions about what to fund through a block grant.
- Allowing local level flexibility to determine the programs that best fit student needs, including increasing teacher planning time and providing enrichment in multiple subjects besides reading and math .

**Title IV, Part B provides funding to address the health and safety needs of students.** The Democratic amendment provides formula funding to states, and competitive grants to local educational agencies in partnership with one or more community-based organizations. Local educational agencies are required to conduct a needs assessment in several key areas, including school safety, the prevalence of substance abuse, the unmet needs of youth in danger of juvenile delinquency and gang activity, the need for specialized instructional support personnel, and the prevalence of student health needs (including mental health and nutrition). Grant funds would be used to address the identified needs and the eligible entity would be held accountable for the academic and non-academic progress of students.

The amendment also requires states to develop comprehensive school safety plans which must include plans to address bullying and harassment; evidence-based and promising practices to address juvenile delinquency and gang activity; school-sponsored, off-premises, overnight field trips, and crisis and emergency management. These plans must be adopted by local educational agencies within 1 year, with LEAs able to incorporate additional safety provisions reflective of community need.

Unlike the Republican bill, this improves current law by:

- Creating a separate funding stream to address the non-academic needs of students. H.R. 5 forces local educational agencies to make difficult decisions about what to fund and what not to fund through a block grant. Under the Republican bill, there is no guarantee that student’s safety, health, mental health, nutritional or other essential needs would be met under the Republican bill.
- Ensuring that states and districts have comprehensive plans in place to deal with student safety needs and school-wide emergencies. H.R. 5 does nothing to address the very prevalent problems facing students such as bullying and harassment.
- Consolidating numerous small grant programs, reducing administrative burden and bureaucracy on States and local educational agencies, and making it easier for State and local educational agencies to compete for and access funds.

Including sexual orientation and gender identity in definitions for bullying and harassment and requires the health and safety needs of LGBT students to be addressed in conducting needs assessments, developing and implementing school safety plans, and any reporting of incidents of violence.

## **Title V – Well-Rounded Students and Engaged Families**

The Democratic amendment reauthorizes and improves the Charter School Programs, strikes current law Title V, Part D and replaces it with programs dedicated to improving student achievement in STEM, literacy, technology, and other subject matters leading to a well-rounded education, and reauthorizes and improves a state-based program to build effective family-school partnerships.

Part B: Quality Charter Schools is legislative language pulled from HR2218, passed by the Committee and the full body with strong bipartisan support during the 112<sup>th</sup> Congress. Because much of the provisions were carefully negotiated with the Majority last congress, there are only a few differences between H.R. 5 and the Democratic amendment; however, the differences within our amendment seek to ensure a stronger emphasis on quality in awarding federal funds for the opening, replication, or expansion of charter schools.

Unlike the Republican bill, this:

- Limits receipt of CSP state grant funds to State educational agencies and statewide authorizers. The Republican bill allows for governors and “charter support organizations” to also receive state grants.
- Ties outcomes to quality authorizing and operational standards included in Title I.
- Maintains a 5 year grant period to ensure thoughtful planning, development, and evaluation of charter schools opened, replicated, or expanded with CSP funds.

- Allows for greater flexibility in use of CSP funds to account for start-up operational expenditures.
- Includes robust program evaluation.
- Increases the national activities grant pool to allow for grants to eligible applicants in states that do not receive state grants.
- Ties the definition of ‘high quality charter school’ to student achievement and growth as described in title I.

**Subpart 1 creates a comprehensive program for STEM education** from preschool through grade 12. If the STEM program is funded above \$250 million, funds are provided by formula to states; if funding is below \$250 million, funds are competitive to states. States provide competitive grants to the local level.

Districts or a consortium of districts must conduct a needs assessment to determine how to use the STEM grant, including for professional development, curriculum, assessments, improving school science labs, afterschool programs, and other academic supports. A special focus is required on students who are traditionally underrepresented in STEM fields such as women and students of color. The amendment also creates a STEM Master Teacher Corps that will attract, improve, and retain teachers who teach STEM subject in high need schools.

Unlike the Republican bill, this improves current law by:

- Creating a separate funding stream to address STEM education. H.R. 5 does not specifically fund STEM education and forces local educational agencies to make difficult decisions about what to fund and what not to fund through a block grant.
- Strengthening the provisions formerly authorized under the current law program Mathematics and Science Partnerships and increasing its funding.

**Subpart 2 creates a comprehensive literacy program** for students from preschool through grade 12. If the literacy program is funded above \$250 million, funds are provided by formula to states; if funding is below \$250 million, funds are competitive to states. The Secretary may also award planning grants to states to review current reading, writing, and other literacy programs, form a literacy leadership team, and create a comprehensive literacy plan. States provide competitive grants to the local level.

- 10% of funds are used for children from preschool through kindergarten.
- 40% of funds are used for students from kindergarten through grade 5.
- 40% of funds are used for students from grade 5 through grade 12.
- Funds must be used to implement the literacy plans and provide support for professional development, curriculum, assessments and other academic supports.

Unlike the Republican bill, this improves current law by:

- Creating a separate funding stream to address literacy education. H.R. 5 provides no specific funding for literacy programs and forces local educational agencies to make difficult decisions about what to fund and what not to fund through a block grant.
- Consolidating numerous small grant programs to reduce administrative burden and make it easier for States and districts to compete for and access funds.

**Subpart 3 supports local delivery of a well-rounded education to students.** The amendment provides funding for States and districts, in partnership with Institutes of Higher Education, nonprofit organizations, libraries, or museums, to compete for grants in a variety of important subject matter areas. Grant funds may be used for professional development, curriculum, assessments, and other academic supports.

- 30% of funds are reserved for American History, Civic Education, and Geography programs.
- 10% of funds are reserved for Economic, Entrepreneurship, and Financial Literacy Education programs.
- 20% of funds are reserved for Foreign Languages programs.
- 20% of funds are reserved for Arts programs.
- 10% of funds are reserved for Javits Gifted and Talented programs.
- 5% of funds are reserved for a national competition for nonprofit organizations, such as the National Writing Project, Ready to Learn, Reach Out and Read, and others.

Unlike the Republican bill, this improves current law by:

- Creating a separate funding stream to provide students with a diverse education. H.R. 5 provides no specific funding for these important programs and does not protect against a narrowing of the curriculum.
- Consolidating numerous small grant programs reduces administrative burden to make it easier for States and districts to compete for and access funds.

**Subpart 4 creates a comprehensive program for education technology.** The program provides formula grants to States and districts. The program would help districts invest in infrastructure (e.g., devices, software, or connectivity) and professional development for educators in the use of technology and digital resources to improve student learning.

Unlike the Republican bill, this improves current law by:

- Restoring support for education technology that was eliminated in H.R. 5 and updating the existing education technology program; and
- Equipping schools and teachers to provide a 21<sup>st</sup> century education and ensuring resources for those students and schools who lack access to technology.

The amendment also creates a new agency (ARPA-ED) in the Department of Education that would leverage cutting edge R&D to spur new education breakthroughs.

**Title V, Part E restores and improves Parent Information Resource Centers (PIRCs).** The Democratic amendment re-defines the PIRCs' role to providing capacity-building, training, and technical assistance to States and districts, in order to scale up innovative practices and reach more families, particular those in high-need communities and ensure the ability of school districts to implement section 1118. The amendment renames PIRCs as "Statewide Family Engagement Centers" (SFECs) to better reflect their new role. H.R. 5 also contains this provision.

Unlike the Republican bill, this improves current law by:

- Ensuring that each state receives at least one SFEC grant for technical assistance and capacity-building in family engagement to improve student outcomes.
- Ensuring a minimum grant award per state.

This improves current law by:

- Improving the ability of PIRCs to provide technical assistance to State educational agencies and local educational agencies to more effectively engage parents in the education of their children.

## **Title VI and Title VII**

The Democratic amendment leaves in place current law for Titles VI (Flexibility and Accountability) and VII (Indian, Native Hawaiian, and Alaska Native Education), while extending authorization levels for Title VII. These programs mostly work well under current law.

## **Title VIII – Impact Aid**

H.R. 5 makes small but mostly positive changes to Impact Aid. The Democratic amendment makes a slight change to H.R. 5 to give the US Department of Education improved “policing authority” should states try to circumvent the equalization provision without being an approved state allowed to equalize Impact Aid funding. Only three states (AK, KS, NM) are currently allowed to equalize Impact Aid funding. This change was requested by the National Association of Federally Impacted Schools.

## **Title IX – General Provisions**

The Democratic amendment makes changes to general provisions of ESEA in order to ensure the safety, health, and well-being of all students, in addition to improving evaluations of federal programs.

**The Keeping All Students Safe Act** amends ESEA by protecting all children nationwide from restraint and seclusion except in emergencies that threaten physical danger. Inclusion of these provisions recognizes that all students have the right to be free from physical or mental abuse and aversive behavioral interventions that compromise health and safety. It makes clear that restraint and seclusion must only be used in emergencies threatening physical safety and are never a substitute for appropriate educational or behavioral support. Fewer than half of all states lack these protections for all children.

Unlike the Republican Bill, this improves current law by:

- Requiring prompt parental notification when seclusion and/or restraint is utilized
- Banning the use of dangerous mechanical and chemical restraints and those that impair breathing
- Requiring evidence-based, positive and preventative strategies to promote a positive school culture and climate and keep all students, including students with the most complex and intensive behavioral needs, and school personnel safe.

- Ensuring that staff are properly trained in evidence-based methods to minimize the use of restraint and seclusion and to better protect students and staff
- Requiring collection of data to better inform decision-making

**The Protecting Students from Sexual and Violent Predators Act** amends ESEA by requiring specific criminal and child abuse background checks for all public school employees, contractors and applicants for those positions if they include access to children. The bill prohibits such staff from working in public schools if they have been convicted of specified violent or sexual felonies or any violent or sexual crime against children.

Unlike the Republican bill, this improves current law by:

- Requiring all staff or contractors who have access to children in public schools have a comprehensive, consistent and regular background check; and
- Ensuring that school staff and contractors convicted of violent or sexual crimes do not have access to public school students.

**The Protecting Student Athletes from Concussions Act** amends ESEA to set minimum standards for concussion safety and management that meets the needs of the school community.

Unlike the Republican bill, this improves current law by:

- Requiring states to ensure that public schools have a concussion safety and management plan that educates students, parents, and school personnel about concussion safety and how to support students recovering from concussions;
- Empowering parents, student athletes, and school personnel by posting information about concussions on school grounds and on school websites;
- Supporting “when in doubt, sit it out” policies for students suspected of sustaining a concussion during a school-sponsored athletic activity

The Democratic amendment also amends Title IX to include a small set-aside of each program for the purposes of evaluating and improving that program. The Secretary may reserve 1 to 3% of funds from each categorical program or demonstration project in order to 1) evaluate the effectiveness of programs, 2) continuously improve programs, 3) provide technical assistance to grantees, and 4) identify and disseminate best practices.

## Other Laws

**The McKinney-Vento Homeless Assistance Act.** While H.R. makes some improvements to the McKinney-Vento program for the education of homeless children and youth, the Republican-proposed program authorization is \$9 million below current authorization, despite a 57% increase in homeless students since 2009. Currently, McKinney-Vento reaches less than one in five local educational agencies. Additionally, the Republican bill removes provisions to improve educational access and achievement for homeless children and youth that were included in the Republican bill last Congress because Mrs. Biggert is no longer on the committee.

Unlike the Republican bill, this improves current law by:

- Authorizing the program at a level reflective of real need and in recognition of economic hardship.
- Authorizing a new emergency grant program within McKinney-Vento to assist local educational agencies in experiencing an increase in homelessness in the aftermath of natural disasters such as Super storm Sandy or Hurricane Katrina.
- Improving the engagement of homeless parents in the education of their children.
- Giving local educational agencies the flexibility to equitably serve homeless children and youth by making clear that title I funds can be expended to transport homeless children and youth to and from their school-of-origin.